

Assembly Bill No. 2861

Passed the Assembly August 31, 2008

Chief Clerk of the Assembly

Passed the Senate August 31, 2008

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2008, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 1317.1 of the Health and Safety Code, relating to emergency services.

LEGISLATIVE COUNSEL'S DIGEST

AB 2861, Hayashi. Emergency services and care: psychiatric emergency medical condition.

Existing law provides for the regulation of health facilities, including general acute care hospitals and acute psychiatric hospitals. A violation of these provisions is a crime. Existing law requires emergency services and care to be provided to any person requesting the services or care for any condition in which the person is in danger of loss of life. For purposes of these provisions, existing law defines emergency services and care to include additional screening, examination, and evaluation by a physician, or other personnel to the extent permitted by applicable law and within the scope of their licensure and clinical privileges, to determine if a psychiatric emergency medical condition exists as provided.

This bill would define psychiatric emergency medical condition as specified, and would, for this purpose, include admission or transfer to a psychiatric unit within a general acute care hospital or to an acute psychiatric hospital within the care and treatment of this condition. This bill would allow the transfer to a psychiatric unit within a general acute care hospital or to an acute psychiatric hospital for the purpose of providing care and treatment that is solely necessary to relieve or eliminate a psychiatric emergency medical condition if, in the opinion of the treating provider, the patient's medical condition is such that, within a reasonable medical probability, no material deterioration of the patient's condition is likely to result from, or occur during, the transfer of the patient. The bill would require a provider to notify the patient's health care service plan, or the health plan's contracting provider of the need for the transfer, as provided. The bill would require a hospital that transfers a patient pursuant to these provisions to seek to obtain the name and contact information of the patient's health care service plan, would require the hospital to document its

attempt to ascertain this information, and would require the hospital to notify the health care service plan or contracting medical provider of specified information related to the transfer, as provided. The bill would also require a health care service plan to provide noncontracting hospitals with its contact information, as provided, and would require health care service plans to update this information as necessary, but no less than once a year. The bill would further require the hospital to which a patient is transferred pursuant to these provisions to notify the patient's health care service plan of the transfer, as provided. By creating new crimes, this bill would impose a state-mandated local program.

This bill would define "stabilized" to include patients whose medical condition is such that, within reasonable medical probability, no material deterioration of the patient's condition is likely to result from the release, as well as transfer, of that patient.

This bill would also make a technical change.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 1317.1 of the Health and Safety Code, as amended by Section 1 of Chapter 544 of the Statutes of 1999, is amended to read:

1317.1. Unless the context otherwise requires, the following definitions shall control the construction of this article and Section 1371.4:

(a) (1) "Emergency services and care" means medical screening, examination, and evaluation by a physician, or, to the extent permitted by applicable law, by other appropriate personnel under the supervision of a physician, to determine if an emergency medical condition or active labor exists and, if it does, the care, treatment, and surgery by a physician necessary to relieve or eliminate the emergency medical condition, within the capability of the facility.

(2) “Emergency services and care” also means an additional screening, examination, and evaluation by a physician, or other personnel to the extent permitted by applicable law and within the scope of their licensure and clinical privileges, to determine if a psychiatric emergency medical condition exists, and the care and treatment necessary to relieve or eliminate the psychiatric emergency medical condition, within the capability of the facility.

(A) The care and treatment necessary to relieve or eliminate a psychiatric emergency medical condition may include admission or transfer to a psychiatric unit within a general acute care hospital, as defined in subdivision (a) of Section 1250, or to an acute psychiatric hospital, as defined in subdivision (b) of Section 1250, pursuant to subdivision (k).

(B) For the purposes of Section 1371.4, emergency services and care, as defined in this paragraph, shall not apply to services provided under managed care contracts with the Medi-Cal program to the extent that those services are excluded from coverage under the contract.

(3) “Psychiatric emergency medical condition” means a mental disorder that manifests itself by acute symptoms of sufficient severity as to render the patient as either of the following:

(A) An immediate danger to himself or herself or to others.

(B) Immediately unable to provide for, or utilize, food, shelter, or clothing due to the mental disorder.

(4) This subdivision does not expand, restrict, or otherwise affect, the scope of licensure or clinical privileges for clinical psychologists or other medical personnel.

(b) “Emergency medical condition” means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in any of the following:

(1) Placing the patient’s health in serious jeopardy.

(2) Serious impairment to bodily functions.

(3) Serious dysfunction of any bodily organ or part.

(c) “Active labor” means a labor at a time at which either of the following would occur:

(1) There is inadequate time to effect safe transfer to another hospital prior to delivery.

(2) A transfer may pose a threat to the health and safety of the patient or the unborn child.

(d) “Hospital” means all hospitals with an emergency department licensed by the state department.

(e) “State department” means the State Department of Public Health.

(f) “Medical hazard” means a material deterioration in medical condition in, or jeopardy to, a patient’s medical condition or expected chances for recovery.

(g) “Board” means the Medical Board of California.

(h) “Within the capability of the facility” means those capabilities which the hospital is required to have as a condition of its emergency medical services permit and services specified on Services Inventory Form 7041 filed by the hospital with the Office of Statewide Health Planning and Development.

(i) “Consultation” means the rendering of an opinion, advice, or prescribing treatment by telephone and, when determined to be medically necessary jointly by the emergency and specialty physicians, includes review of the patient’s medical record, examination, and treatment of the patient in person by a specialty physician who is qualified to give an opinion or render the necessary treatment in order to stabilize the patient.

(j) A patient is “stabilized” or “stabilization” has occurred when, in the opinion of the treating provider, the patient’s medical condition is such that, within reasonable medical probability, no material deterioration of the patient’s condition is likely to result from, or occur during, the release or transfer of the patient as provided for in Section 1317.2, Section 1317.2a, or other pertinent statute.

(k) (1) (A) If a patient needs to be transferred to a psychiatric unit within a general acute hospital or to an acute psychiatric hospital for care and treatment that is solely necessary for a psychiatric emergency medical condition, a provider shall notify the patient’s health care service plan, or the health plan’s contracting medical provider, of the need for the transfer if identification of the plan is obtained pursuant to subparagraph (B). The transfer shall only occur if, in the opinion of the treating provider the patient’s psychiatric emergency medical condition is such that, within reasonable medical probability, no material deterioration of the patient’s psychiatric emergency medical

condition is likely to result from, or occur during, a transfer of the patient.

(B) A provider that needs to transfer a patient pursuant to this paragraph shall seek to obtain the name and contact information of the patient's health care service plan. The hospital shall document its attempt to ascertain this information in the patient's medical record. The hospital's attempt to ascertain this information shall include requesting the patient's health care service plan member card or asking the patient, or a family member or other person accompanying the patient, if he or she can identify the patient's health care service plan, or using other means known to the hospital to accurately identify the patient's health care service plan.

(C) The provider shall make the notification described in this paragraph by either following the instructions on the patient's health care service plan member card or using contact information provided by the patient's health care service plan. A health care service plan shall provide all noncontracting hospitals specified in subparagraph (A) of paragraph (2) of subdivision (a), in the state with specific contact information needed to make the contact required by this section. The contact information provided to hospitals shall be updated as necessary, but no less than once a year.

(D) The provider making the notification shall not be required to make more than one telephone call to the health care service plan, or its contracting medical provider, to comply with this paragraph, provided that, in all cases, the health care service plan, or its contracting medical provider, shall be able to reach a representative of the provider upon returning the call, should the plan, or its contracting medical provider, need to call back. The representative of the provider who makes the telephone call may be, but is not required to be, a physician and surgeon.

(2) Notwithstanding subdivision (j), a patient may be transferred for admission to a psychiatric unit within a general acute hospital provided that in the opinion of the treating provider the patient's psychiatric emergency medical condition is such that, within reasonable medical probability, no material deterioration of the patient's psychiatric emergency medical condition is likely to result from, or occur during, a transfer of the patient.

(3) A provider that transfers a patient pursuant to paragraph (2) shall notify the patient's health care service plan, or the health plan's contracting medical provider, if identification of the plan was obtained pursuant to subparagraph (A) of paragraph (1). The provider shall provide the plan, or its contracting medical provider, the name of the patient, the patient's member identification number, if known, the location and contact information, including a telephone number for the location where the patient will be admitted, and the preliminary diagnosis.

The provider making the transfer shall not be required to make more than one telephone call to the health care service plan, or its contracting medical provider, in order to comply this paragraph provided that in all cases the health care service plan, or its contracting medical provider, shall be able to reach a representative of the provider upon returning the call, if the plan, or its contracting medical provider, needs to call back. The representative of the provider who makes the telephone call may be, but is not required to be, a physician and surgeon.

(4) If a transfer made pursuant to paragraph (2) is made to a facility that does not have a contract with a health care service plan, the plan may subsequently require and make provision for the transfer of the patient receiving services pursuant to this subdivision and subdivision (a) from the noncontracting facility to a general acute care hospital, as defined in subdivision (a) of Section 1250, or an acute psychiatric hospital, as defined in subdivision (b) of Section 1250, that has a contract with the plan or its delegated payer, provided that in the opinion of the treating provider the patient's psychiatric emergency medical condition is such that, within reasonable medical probability, no material deterioration of the patient's psychiatric emergency medical condition is likely to result from, or occur during, the transfer of the patient.

(5) Upon admission, the health facility to which the patient was transferred shall notify the health care service plan of the transfer, provided that the facility has the name and contact information of the patient's health care service plan. The facility shall not be required to make more than one telephone call to the health care service plan, or its contracting medical provider, in order to comply with this paragraph, provided that in all cases the health care service plan, or its contracting medical provider, shall be able to

reach a representative of the facility upon returning the call, should the plan, or its contracting medical provider, needs to call back. The representative of the facility who makes the telephone call may be, but is not required to be, a physician and surgeon.

(6) Nothing in this subdivision shall be construed to require providers to seek authorization to provide emergency services to a patient who has a psychiatric emergency medical condition, as defined in paragraphs (2) and (3) of subdivision (a), that is not otherwise required by law.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2008

Governor